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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/805,950	03/15/2001	Rodney Senior	13620	3634
293	7590	05/03/2006		EXAMINER
Ralph A. Dowell of DOWELL & DOWELL P.C. 2111 Eisenhower Ave Suite 406 Alexandria, VA 22314				RHODE JR, ROBERT E
			ART UNIT	PAPER NUMBER
			3625	

DATE MAILED: 05/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/805,950	SENIOR, RODNEY	
	<b>Examiner</b>	<b>Art Unit</b>	
	Rob Rhode	3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 15 September 2005.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 6 - 25 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 6-25 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
     Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
     Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_

## DETAILED ACTION

Prosecution on the merits of this application is reopened on claims 6 - 25 filed on 9-19-05 specifically claim 20 and Amended Claims 6, 12 and 13, which incorporated claim 20 in the Notice of Allowance of 12-01-05 are considered unpatentable for the reasons indicated below:

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 6, 12 and 13 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was originally filed, had possession of the claimed invention. For example, these claims include the limitation " and wherein said purchaser is able to purchaser is able to purchase a selected quantity of at least one commodity includes said purchaser being able to convert quantities of commodity purchased between said plurality of different geographical price zones", which was not described in the specification as *originally* filed in such a way as to convey to one skilled in the art that the inventor had procession of this claim limitation. While the Applicant does offer support in Figures 5 – 11 and

specifically Figure 5, this Figure contains only the text "Convert Zone" without any description or additional screen shots to describe the functions, features or description intended by the claim language. Moreover, the entered Amended Specification does not teach converting quantities of the product between price zones.

Claim 6, 12 and 13 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter of "converting quantities of a commodity purchased between said plurality of different price zones", which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Moreover, the specification and Figure 5 teaches away from being able for "converting quantities of a commodity purchased between said plurality of different price zones". For example, Figure 5 stipulates being able to redeem only in the price zone of the original quantity purchased, which would preclude and teaches away from converting between price zones.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 6, 12 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The following term is relative: "converting". This term is not defined by the claims, the specification does not provide a standard for

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ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonable appraised of the scope of the invention. For example, it is left to speculation exactly what is being "converted".

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 23 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The following phrase is relative: "weighted average". This phrase is not defined by the claims, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonable appraised of the scope of the invention. For example, it is left to the speculation exactly what is weighted average. For examination purposes, the phrase "weighted average" will be treated as any "weighted average".

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

**Claims 1 – 6, 8 – 13, 15 – 18, 21, 22 and 24 – 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nicholson (US 6,778,967 B1) in view of Official Notice.**

Regarding claim 6 (currently amended) and related claims 12 and 13, Nicholson teaches a method and system of electronically transacting the purchase of a commodity, which comprises:

a) providing an electronic system for purchasing commodities over a communication network and which system includes a computer database containing commodity information concerning at least one product or service which may be purchased at a real time purchase price, that is locked-in at time of purchase, for at least partial consumption or use at a future date (see at least Abstract, Col 4, lines 1 - 10 and Figure 6);

and;

c) the purchaser electronically accessing the electronic system and, upon verification of the purchaser's unique secure access code, the purchaser selecting and purchasing from the computer database a quantity of a given selected commodity at the real time purchase price reflected in the computer database for redemption of at least a portion of the quantity of the commodity purchased at a future date at the locked-in purchase price

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to thereby ensure that the quantity of commodity purchased is not subject to future market price fluctuations and creating a quantity credit account for the commodity purchased (Abstract and Col 5, lines 1 – 9)

) storing data in the computer database for the quantity credit account in an electronically accessible format (see at least Col 5, lines 1 – 10 and Figure 6 and 7B); and

e) subsequently, at a point of redemption, electronically accessing said the computer database and redeeming at least a portion of the quantity of the commodity previously purchased and adjusting the quantity credit account to reflect the portion of the quantity of commodity purchased that has been redeemed (see at least Col 6, lines 12 – 23 and 52 – 67 and Figure 7B).

Nicholson does disclose purchasing over the internet as well establishing individual accounts, the reference does not specifically disclose and teach b) electronically pre-registering a purchaser and providing the purchaser with a unique secure access code.

On the other hand the Examiner takes Official Notice that it was old and well known that establishing accounts on the Internet included unique access codes such as passwords or authorization codes as apart of establishing/registering the account.

It would have been obvious to one of ordinary skill in the art to have extended the method and system of Nicholson with a method and system for b) electronically pre-

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registering a purchaser and providing the purchaser with a unique secure access code and authorizing the purchaser to purchase a quantity of commodity from the system.

Nicholson in this case discloses purchasing a quantity of a selected commodity over the Internet as well as establishing an account, which is tracked by the method of and system of Nicholson. Thereby, one of ordinary skill in the art would have been motivated to extend the method and system of Nicholson with a unique access code as apart of establishing/registering in order to ensure that each individual receives the commodities they purchased previously at a lock-in price and be assured that the system is secure as possible in order the accountholder can redeem the purchased gasoline.

Regarding claim 8 (currently amended), Nicholson teaches a method wherein the redeeming is performed at a plurality of locations (Col 5, lines 27 - 28).

Regarding claim 9 (currently amended), Nicholson teaches a method wherein the computer database includes a plurality of commodities and the purchaser purchasing? discrete quantities of commodities for future redemption and adjusting the quantity credit account to reflect said purchases and redemptions (Col 5, lines 1- 10).

Regarding claim 10 (currently amended), Nicholson teaches a method wherein the purchasing and redeeming steps are performed over a computer network (Abstract and Figure 6).

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Regarding claim 11 (currently amended), Nicholson teaches a method wherein at least one commodity is a brand name commodity and the purchasing and redeeming steps are effected with the same brand name of the commodity (Abstract and Col 8, lines 27 – 29).

Regarding claim 15 (currently Amended), Nicholson teaches a system wherein the means for the purchaser to purchase includes a computer server, which is connected to said computer database (figure 6).

Regarding claim 16 (currently amended), Nicholson teaches a system wherein the computer database includes a plurality of commodity description and real time current pricing information with respect thereto and includes an Internet browser (Abstract and Col 5, lines 1 – 10).

Regarding claim 18 (currently amended), Nicholson teaches a system of claim, wherein said computer server is electronically connected to a point-of-sale terminal (Col 6, line 41).

Regarding claim 21 (currently amended) and related claim 22, Nicholson teaches a system wherein the commodity redemption module is operable in conjunction with an encoded access device (Col 6, lines 3 – 4).

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Regarding claim 23, Nicholson teaches a system further comprising: e) a means for combining data in said purchase blocks to provide a weighted average purchase value of same commodities in said quantity credit account in a format that can be compared with current market prices for the same commodities (Abstract and Col 5, lines 19 – 37).

Regarding claim 24, Nicholson teaches a system further including means for the purchaser to view and print transaction histories and account balances contained in said quantity credit account. Please note that Nicholson does not specifically disclose printing of transaction histories. However, Nicholson does disclose printing with their PC. Therefore, one of ordinary skill in the art would have been motivated to extend the system of Nicholson for printing transaction and account balances.

Regarding claim 25, the Examiner takes Official Notice that a system including means in said computer database to modify purchaser contact information and information concerning a profile of the purchaser and to modify the unique secure access code of the purchaser. This system of changing purchaser contact information as well password was well known to one of ordinary skill in the art at the time of the applicant's invention. Thereby, the purchaser would be motivated to change these settings in order to ensure security of the account and to ensure their bills are sent to the correct location and thereby ensure to that they can pay in timely fashion to ensure against bad credit rating for not paying their bills.

**Claims 7 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Nicholson and Official Notice as applied to claims 1 and 13 above, and further in view of Van Dusen (US 6,594,644 B1).**

The combination of Nicholson and Official Notice disclose and teach substantially the applicant's invention.

However, the combination does not specifically disclose and teach a method and system wherein at least portion of the quantity of the commodity purchased is electronically transferred in the computer database by the purchaser in order to be redeemed by another entity.

On the other hand and regarding claim 7 and related claim 14, Van Dusen teaches a method and system wherein at least portion of the quantity of the commodity purchased is electronically transferred in the computer database by the purchaser in order to be redeemed by another entity (see at least Abstract).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have provided the combination of Nicholson and Official Notice with the method and system of Van Dusen to have enabled a method and system wherein at least portion of the quantity of the commodity purchased is electronically transferred in the computer database by the purchaser in order to be redeemed by another entity. The combination

of Nicholson and Official Notice disclose a method and system as recited in claim 1. In turn, Van Dusen discloses a method and system wherein at least portion of the quantity of the commodity purchased is electronically transferred in the computer database by the purchaser in order to be redeemed by another entity (Abstract). Therefore, one of ordinary skill in the art would have been motivated to extend the combination of Nicholson and Official Notice with a method and system wherein at least portion of the quantity of the commodity purchased is electronically transferred in the computer database by the purchaser in order to be redeemed by another entity. In this manner, the purchaser can transfer some portion of their purchase to another recipient/entity and thereby allow select others to enjoy the savings too as a gift.

**Claims 19 and 20 rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Nicholson and Official Notice as applied to claim 13 above, and further in view of Zicker (US 6,526,277 B1).**

The combination of Nicholson and Official Notice disclose and teach substantially the applicant's invention.

However, the combination does not specifically disclose and teach a system wherein said computer database includes means for selecting and purchasing a quantity of a commodity in one of a plurality of different geographical price zones and wherein said

computer database includes means for converting Quantities of commodity Purchased between said plurality of different geographical price zones.

Regarding claim 19 (currently amended), Zicker teaches a system wherein said computer database includes means for selecting and purchasing a quantity of a commodity in one of a plurality of different geographical price zones (Col 51, lines 50 – 53).

20. (currently amended), Zicker teaches a system wherein said computer database includes means for converting quantities of commodity Purchased between said plurality of different geographical price zones (Col 51, lines 50 – 53).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have provided the combination of Nicholson and Official Notice with the system of Zicker to have enabled a system wherein said computer database includes means for selecting and purchasing a quantity of a commodity in one of a plurality of different geographical price zones and wherein said computer database includes means for converting quantities of commodity purchased between said plurality of different geographical price zones. The combination of Nicholson and Official Notice disclose and teaches the limitations of claim 13 as recited. In turn, in the same area of purchasing a commodity such as service, Zicker discloses a system wherein said

computer database includes means for selecting and purchasing a quantity of a commodity in one of a plurality of different geographical price zones and wherein said computer database includes means for converting quantities of commodity purchased between said plurality of different geographical price zones (Col 51, lines 50 – 53). Therefore, one of ordinary skill in the art would have been motivated to extend the combination of Nicholson and Official Notice with the system wherein said computer database includes means for selecting and purchasing a quantity of a commodity in one of a plurality of different geographical price zones and wherein said computer database includes means for converting quantities of commodity purchased between said plurality of different geographical price zones.

#### ***Response to Arguments***

Applicant's arguments filed 9-19-05 have been fully considered but they are not persuasive.

Applicant argues that Nicholson teaches away from "providing a unique access code" as well as not teaching a "pre-registration"

First, Nicholson discloses and teaches establishing accounts as well as tracking purchases as well redemptions. For example, Nicholson teaches one of ordinary skill that accounts are established, tracked and results of purchases as well redemptions being stored in a database (Abstract, Col 5, lines 1 – 9 and 19 – 28). Moreover, it is well known that to access the established account on the webs codes such as Login

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passwords have been used. In order to establish this account as taught by Nicholson, the individual would have to register in order to establish their account and be able to track and use for purchases in the future.

Applicant argues that Zicker does not teach purchasing time in different geographical zones.

Zicker discloses and teaches purchasing of service packages for cell phones in different geographical areas. In that regard and it is well known that cell phone service packages include options for purchasing minutes as apart of that package. This allows the cellular service provider the means to effectively market its services in the form of zones of coverage which most appeal to customers. These zones can be as small as a single cell site or as large as the entire system. Therefore, a customer may now purchase a service package that provides for Local use pricing in zones of interest and Premium use pricing elsewhere (Col 51, lines 50 – 53).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art is McCall (US 6,321,984 B1) and Chen (US 6,741,969 B1), which disclose tracking buyers' purchasers as well access authorization codes as well as Horn (US 6,862,612 B1), which discloses changing passwords.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Rob Rhode** whose telephone number is **571.272.6761**. The examiner can normally be reached Monday thru Friday 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Yogish Garg** can be reached on **571. 272.6756**.

Any response to this action should be mailed to:

***Commissioner for Patents***

**P.O. Box 1450**

**Alexandria, Va. 22313-1450**

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